

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

Criminal Case Number: 03-80710

v.

JUDGE PAUL D. BORMAN
MAG. JUDGE
VIRGINIA M. MORGAN
UNITED STATES DISTRICT COURT

BRENT ADDELIA,

Defendant.

**ORDER (1) ADOPTING AND MODIFYING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION; AND (2) GRANTING IN PART DEFENDANT'S § 2255
MOTION**

Before the Court is the Magistrate Judge's Report and Recommendation in favor of granting in part Defendant's Motion to Vacate his Sentence pursuant to 28 U.S.C. § 2255. The Magistrate Judge recommends granting Defendant's Motion to the extent that the clerk's office will be instructed to construe Defendant's docketed notice of appeal as timely and transmit the same to the Sixth Circuit Court of Appeals where a new appeal will be opened on the Defendant's behalf. Further, the Court modifies the Magistrate Judge's Report and Recommendation such that Defendant's § 2255 Motion shall be stayed pending the resolution of his appeal in the Sixth Circuit. Having reviewed that Report and Recommendation, and there being no objections from either party, and the Government agreeing in their Response to such limited relief, the Court hereby;

- (1) **ADOPTS AND MODIFIES** the Magistrate Judge's Report and Recommendation;
and

- (2) **GRANTS IN PART** Defendant's Motion to Vacate his Sentence pursuant to 28 U.S.C. § 2255 (Doc. No. 58); and
- (3) **ORDERS** that the clerk's office shall construe Defendant's docketed Notice of Appeal (Doc. No. 44) as timely and transmit the same to the Sixth Circuit Court of Appeals.
- (4) **STAYS** Defendant's Motion to Vacate pursuant to 28 U.S.C. § 2255 (Doc. No. 58) pending the resolution of his appeal by the Sixth Circuit of Appeals.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: September 6, 2007

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on September 6, 2007.

s/Denise Goodine
Case Manager